

ing in the present action filed a statement of defence, in which he either denied or refused to admit each of the allegations of the statement of claim, but set up no other defence. The plaintiff applied to Romer, J., to strike out the defence as frivolous and vexatious, relying in support of his application on the defendant's admissions under oath in the other case, and that learned judge granted the order, which the Court of Appeal (Lindley, Lopes and Rigby, L.JJ.) held to be rightly made. The Court of Appeal is careful to point out that on such applications the Court cannot try on affidavit the truth or falsity of a defence, and it is only where there are undisputed facts upon which the Court can proceed, that such an order can properly be made. We may observe that the jurisdiction of the Court to make such an order is not based on any rule or statute, but on its inherent jurisdiction to prevent an abuse of its process.

JURISDICTION—SETTLED LAND—REBUILDING HOUSES—(58 VICT., c. 20. O.)

*In re Montagu, Derbshire v. Montagu*, (1897) 2 Ch. 8, may be usefully referred to as showing how purely statutory is the jurisdiction of the Court to deal with settled estates, and therefore that it cannot go beyond its statutory powers however beneficial it might be for the cestui que trusts so to do. In this case land was vested in trustees upon trust for Philip Montagu for life, and after his death upon trust for his children. He had two children, both infants. Four of the houses on the property were old and in bad repair, and it appeared that if they were pulled down and rebuilt at an expense of about £8,000, the value of the settled property would be increased by £13,000 and its income doubled. The settlement contained no powers under which this could be done, and it did not appear that it was necessary by way of salvage. The trustees applied to the Court for leave to raise money by mortgage for the purpose of carrying out this scheme. Kekewich, J., refused the application on the ground of want of jurisdiction, and his decision was affirmed by the Court of Appeal (Lindley, Lopes and Rigby, L.JJ.) Under the Ontario Settled Estates Act of 1895 (58 Vict., c. 20) the Court under similar circumstances would appear to have ample jurisdic-